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SNR DENTON US LLP			ALVAREZ, RAQUEL	
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The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/092,369  
Filing Date: March 06, 2002  
Appellant(s): STETSON ET AL.

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Tarek N. Fahmi  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 12/12/2011 appealing from the Office action mailed 7/11/2011.

**(1) Real Party in Interest**

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The following is a list of claims that are rejected and pending in the application:

Claims 1, 8, 11-13, 16-19, 21-22, 24, 26, 31, 33, 35, 37, 72 and 74.

**(4) Status of Amendments After Final**

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

**(5) Summary of Claimed Subject Matter**

The examiner has no comment on the summary of claimed subject matter contained in the brief.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

**(7) Claims Appendix**

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

**(8) Evidence Relied Upon**

**6,128,663**

**THOMAS**

**10-2000**

**(9) Grounds of Rejection**

Claims 1, 8, 11-13, 16-19, 21-22, 24, 26, 31, 33, 35, 37, 72, 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (6,128,663 hereinafter Thomas) in view of Official Notice.

With respect to claims 1, 8, 11-13, 16-19, 31, 33, 35, 72, 74, Thomas teaches displaying a message in conjunction with an advertisement on a World Wide Web Page (Abstract). Determining a banner advertisement to be displayed on a World Wide Web page, wherein said World Wide Web page includes content other than the advertisement (i.e. content of the output requested including advertisement)(col. 4, lines 53-65); determining a message to be displayed on said World Wide Web page, wherein said message is thematically related to said banner advertisement and directs a user's attention to the banner advertisement (i.e. variant of the requested page including a greeting)(col. 4, lines 53-65 and col. 8, lines 64-66); determining targeting criteria associated with said message (i.e. taking into account demographics and information of the requested page in order to display a variant of the page to the user)(col. 4, lines 63-

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65); receiving a request to serve said World Wide Web page and serving said World Wide Web page (col. 4, lines 53-65 and col. 8, lines 53 to col. 9, lines 1-9); serving said banner advertisement for display on said World Wide Web page such that at least a portion of the content other than the advertisement included in said World Wide Web page, tailoring said message based on said targeting criteria and serving said tailored message for display on said World Wide Web page (col. 4, lines 53-65 and col. 8, lines 53-65).

With respect to receiving personal information about the user from a user. Thomas teaches receiving personal information about the user (col. 2, lines 1-24). Thomas is silent as to the information being received from the user. Official Notice is taken that it is old and well known to receive personal information from the user such as user's name, age and gender when a user fills out an application and the like. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included receiving personal information from the user in order to allow the user control of his or her information.

With respect to said tailored message being separate from the advertisement. Thomas teaches the user receiving requested content which includes advertisements (banner ads) and a variant of the requested page (tailored message) in a portion of the page (col. 4, lines 63-65).

With respect to the tailored message and the banner advertisement are simultaneously displayed to the user to include a portion of said personal information and direct the user's attention to the banner advertisement. Thomas teaches the user

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will receive requested content which will include advertising banner and a appropriate variant (tailored message) of the requested content that includes greetings, etc. displayed with the requested content or portion thereof (col. 4, lines 60-65).

With respect to claims 21-22, Thomas further teaches tailoring said message based on external information (i.e. receiving demographic information from other sites)(col. 2, lines 64 to col. 3, lines 1-24).

Claim 17 further recites serving a second message when said tailored message is no longer to be displayed. Official Notice is taken that it is old and well known in marketing and the like to schedule a second message when a first message is no longer to be displayed. For example, during the Christmas season a certain message is displayed and when the season is over, a default or second message is displayed. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have including serving a second message when said tailored message is no longer to be displayed in order to allow the customer to always receive or be exposed to a message.

Claims 24, 37, further recite that said tailored message is to be displayed proximal to the advertisement. Thomas is silent as to the location of the message in proportion to the advertisement. Nevertheless, official Notice is taken that placing the

message proximal to the ad or within the advertisement is old and well known to bring the user's attention to the ad.

Claim 26 further recites changing a display attribute within said tailored message. Official Notice is taken that changing display attribute within a message such as changing display color or image will bring the user's attention to the message.

#### **(10) Response to Argument**

Appellant #1: Appellant argues that Thomas directs the user's attention away from the banner advertisement and toward the search result categories, and therefore has the opposite effect of the message recited in claim 1 and that in addition fails to include any personal information about the user.

Response to argument #1: The Examiner wants to point out that Appellant is concentrating in one embodiment of the Thomas and overlooking other embodiments/ teachings. Thomas clearly recites on col. 4, lines 60-65 "Other modification could also be made such as providing a greeting, selecting an appropriate variant of the requested page or portion thereof, etc" Thomas on col. 2, lines 64 to col. 3, lines 1-25, teaches collecting user's demographic to customize appropriate content to the user. As can be seen by Thomas above, the user receives an advertising banner and then in order to bring the user's attention to the advertising banner a customized greeting or variant of the page(tailored message) is displayed to the user.

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Appellant argument #2: Appellant Additionally argues that even if Thomas suggests inserting a greetings into the webpage as depicted in Figure I 1 (which Appellant does not admit), a greeting (absent further details) does not specifically provide a message separate from a banner advertisement that is thematically related to said banner advertisement and tailored to include personal information and direct the user's attention to the banner advertisement, as recited in claim 1.

Examiner response #2: The Examiner disagrees with Appellant because Thomas teaches on col. 4, lines 58-65 “ For example, the requested page often includes an advertising banner, and according to the invention, the particular advertising banner that is chosen to be transmitted with the requested page is determined, not randomly, but in accordance with the demographics identifier. Other modification could also be made such as providing a greeting, selecting an appropriate variant of the requested page or portion thereof, etc.” As taught by Thomas above, the requested page of Thomas can contain banner ads and selecting an appropriate variant of the page (tailored message) such as a greeting to be displayed in the portion of the page. Therefore contrary to Appellant's arguments, Thomas teaches the banner advertisements which are part of the requested page and a separate appropriate variant or greeting (tailor message) of the requested page is displayed to the user in a portion thereof. The banner ads are separate from the appropriate variant of the page including greetings and are displayed simultaneously as portion thereof of the page.

Appellant argument # 3: Appellant argues that the Official Notice taken fails to cure the deficiencies of Thomas. For example, Appellant argues that even if the Official Notice were true, it does not specifically address banner advertisements.

Examiner response #3: The Examiner wants to point out the claims were rejected under the doctrine of 103 and therefore should be argued accordingly. Thomas was the reference cited to teach banner ads.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Raquel Alvarez/  
Primary Examiner, Art Unit 3682

Conferees:

/NAMRATA BOVEJA/  
Supervisory Patent Examiner, Art Unit 3682

Eric Stamber/E. W. S./  
Supervisory Patent Examiner, Art Unit 3622